

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5148-02
Bill No.: Perfected HCS for HB 1717
Subject: Employees - Employers; Taxation and Revenue - Income; Revenue Dept.
Type: Original
Date: April 16, 2012

Bill Summary: This proposal would change the quarterly aggregate amount required to cause an employer to file a withholding return, and would clarify the eligibility of business organizations to claim tax deductions for job creation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(More than \$100,000) to (Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000) to (Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Withholding Tax Filing Requirements

Officials from the **Office of the Secretary of State (SOS)** noted that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Joint Committee on Administrative Rules** assume that this proposal would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **Office of the State Treasurer** assume this proposal would have no fiscal impact on their organization.

Officials from the **Office of Administration, Division of Budget and Planning (BAP)** assume this proposal would not result in additional costs or savings to their organization.

BAP officials stated that this proposal would increase the threshold for annual withholding filers from \$20 to \$100. Withholding taxes that would have otherwise been collected on a quarterly basis in April, July, and October would be delayed until January. This proposal would not directly impact General and Total State Revenues in the aggregate, but could have a cash flow impact across fiscal years.

ASSUMPTION (continued)

Assuming the bill would become effective Aug. 28, 2012, quarterly payments currently due in October 2012 would be remitted in January 2013. This would have no cash effect overall for FY 2013, though timing of payments be different. However, quarterly payments due in April and July of 2013 would not arrive until January 2014. Therefore, revenue collections would be reduced in FY 2013, but the payments in FY 2014 would increase by similar amounts. Further, similar patterns would follow in subsequent years.

BAP officials stated that DOR indicated that about 6,500 businesses would be impacted by this proposal, and BAP deferred to DOR for estimated withholding amounts.

Officials from the **Department of Revenue** (DOR) stated that this proposal would raise the quarterly aggregate amount required to cause an employer to file a withholding return from \$20 to \$100. This should not reduce total state revenue, but would delay the collection of withholding taxes. This would impact approximately 6,500 businesses and each of the businesses could delay until January of the following year the filing and remittance of withholding taxes that would have been paid in April, July, and October. The proposal would also allow DOR to increase the threshold amount for filing a return and remitting taxes.

DOR officials assume their organization would need to change its Application, COREG and On-line File Maintenance systems, and would need to make forms changes. Further, DOR and ITSD-DOR will need to make programming changes to various tax systems.

The DOR response did not indicate an administrative impact to their organization but did include an estimate of the IT cost to implement the proposal of \$1,060 based on 40 hours of programming to make changes to DOR systems.

Oversight Assumption

Oversight assumes that any cost to DOR could be absorbed with existing resources. Oversight also assumes that OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year and that OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

ASSUMPTION (continued)

Oversight assumes this proposal would allow certain employers to delay filing and paying withholding taxes, which are currently due on a quarterly basis, until the following January 31. The amount of tax due and the overall amount of revenue for a tax year would not change; however, implementing this proposal would delay receipt of withholding taxes for one quarter over the end of a state fiscal year as explained below.

- * Taxes withheld for the third calendar quarter ending September 30, 2012 are currently filed and paid by October 31; the proposal would include those taxes in an annual filing due January 31, 2013. Those taxes would be received in the same fiscal year (FY 2013) as currently required, although filing and payment of those funds would be delayed three months. For fiscal note purposes there would be no impact from that delay.
- * Taxes withheld for the fourth calendar quarter ended December 31, 2012 would be paid January 31, 2013 as currently required.
- * Taxes withheld for the first calendar quarter ending March 31, 2013 (FY 2013) are currently required to be filed and paid by April 30, 2013. The proposal would include those taxes in an annual filing due January 31, 2014. They would be paid in January 2014 (FY 2014) instead of April 2013. That delay would be permanent, as each year's first quarter withholding taxes would be paid the following state fiscal year.
- * Based on the number of filers provided by the Department of Revenue, the amount of taxes delayed over the end of a state fiscal year could range from (6,500 filers x the current \$20 threshold) = \$130,000 to (6,500 filers x the new \$100 threshold) = \$650,000.
- * Taxes withheld for the calendar quarters ending June 30, 2013 and September 30, 2013 would be paid in January, 2014. Those taxes would also be paid in the same fiscal year as currently required but would be delayed six months and three months, respectively, as compared to current requirements.

ASSUMPTION (continued)

For fiscal note purposes, Oversight will assume this proposal would result in an unknown revenue reduction greater than \$100,000 for FY 2013. For FY 2014 and subsequent years, the previous year revenue received and the current year revenue deferred to the next year would be approximately equal.

Oversight notes that this proposal would also result in a permanent reduction in the number of payroll tax returns processed; the reduction would likely be somewhat less than three quarters' returns for the affected businesses or $(3 \times 6500) = 19,500$ fewer returns.

DOR officials assume that most of the small quarterly return filers would be electronic filers and this proposal would not likely lead to a reduction in the number of tax return errors or phone calls sufficient to allow a staff reduction.

Tax Deductions for Job Creation

This proposal would clarify eligibility for tax deductions for new job creation.

Officials from the **Office of the Secretary of State (SOS)** assumed in response to similar language in HCS for HB 1661 LR 5684-02 that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Joint Committee on Administrative Rules** assumed in response to similar language in HCS for HB 1661 LR 5684-02 that the proposal would not have a fiscal impact to their organization in excess of existing resources.

ASSUMPTION (continued)

Officials from the **Department of Economic Development**, the **Department of Labor and Industrial Relations**, and the **Department of Revenue** assumed in response to similar language in HCS for HB 1661 LR 5684-02 that the proposal would have no fiscal impact on their organizations.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assumed in response to similar language in HCS for HB 1661 LR 5684-02 that the proposal would not result in additional costs or savings to their organization.

BAP officials stated that it appears the intent of this legislation was to include S-corporations and LLCs as partnerships to claim the deduction for small businesses that create jobs. However, the definition of "taxpayer" is not changed.

Thus, 40.7% of the business filers are S-Corporations or LLC/Partnerships. However, BAP does not have additional data regarding the types of businesses by size of firm.

BAP previously estimated this section of law might reduce General and Total State Revenue by \$10.7 million to \$21.4 million. That estimate included the universe of small businesses, and did not exclude S-corps or LLC/Partners. Forty percent of that estimate would be \$4.3 million to \$8.6 million. However, this cost was included in the original fiscal note.

In response to a previous version of HCS for HB 1661 LR 5684-02 officials from the **Department of Revenue** assumed the proposal would have no fiscal impact on their organization.

BAP officials also stated that DOR provided the following data on the number of business income tax filers by type.

S-Corps	141,783	34.9%
LLCs as partnerships	23,615	5.8%
Sole Proprietors	84,191	20.7%
Corporations	146,732	36.1%
LLC's as corporations	<u>10,289</u>	2.5%
Total	<u>406,610</u>	

ASSUMPTION (continued)

Thus, 40.7% of the business filers are S-Corporations or LLC/Partnerships. However, BAP does not have additional data regarding the types of businesses by size of firm.

BAP previously estimated this section of law might reduce General and Total State Revenue by \$10.7 million to \$21.4 million. That estimate included the universe of small businesses, and did not exclude S-corps or LLC/Partners. Forty percent of that estimate would be \$4.3 million to \$8.6 million. However, this cost was included in the original fiscal note.

In response to a previous version of this proposal, officials from the **Department of Revenue** assumed the proposal would have no fiscal impact on their organization.

Oversight assumes this proposal could have a negative impact on the General Revenue Fund if the changes allow additional filers to claim the deduction. Accordingly, Oversight will indicate an unknown negative fiscal impact for this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE FUND			
<u>Revenue reduction - deductions for job creation</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Revenue reduction - delayed filing and payment of withholding taxes</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
<u>Additional revenue - previous year withholding taxes paid</u>	<u>\$0</u>	<u>More than \$100,000</u>	<u>More than \$100,000</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$100,000) to (Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Local Government

FY 2013
(10 Mo.)

FY 2014

FY 2015

\$0

\$0

\$0

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to a small business which could delay filing and paying withholding taxes.

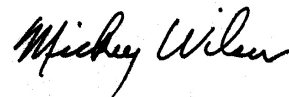
FISCAL DESCRIPTION

This proposal would change the quarterly aggregate amount required to cause an employer to file a withholding return, and would clarify the eligibility of businesses to claim tax deductions for job creation.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
Division of Budget and Planning
Department of Economic Development
Department of Labor and Industrial Relations
Department of Revenue



Mickey Wilson, CPA
Director
April 16, 2012

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